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Attorney for Defendant
ACADEMIA HISTORICA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

The Board of Trustees of the Leland Stanford
Junior University,

Plaintiff,

vs.

Chiang Fang Chi-yi, an Individual; Chiang Yo-
mei, an Individual; Chiang Hsiao-chang, an
Individual; Chiang Tsai Hui-mei, an Individual;
Chiang Yo-sung, an Individual; Chiang Yo-lan,
an Individual; Chiang Yo-bo, an Individual;
Chiang Yo-chang, an Individual; Chiang Yo-
ching, an Individual; Chungyan Chan, an
Individual; Academia Historica, an entity of
The Republic of China; Chiang Hsiao-yen, an
Individual; Chiang Hui-lan, an Individual;
Chiang Hui-yun, an Individual; Chiang Wan-an,
an Individual; and Chiu Ju-hsueh, an Individual.

Defendants.

AND RELATED CROSS-CLAIMS.

Case No.: CV-13-04383-BLF-HRL

Judge: Hon. Beth Labson Freeman
Courtroom: 3 – 5th Floor

**ACADEMIA HISTORICA’S STATEMENT
REGARDING SUITABILITY OF
RECOMMENDED CANDIDATES FOR
MEDIATORS PURSUANT TO COURT
ORDER OF JANUARY 26, 2023.**

Academia Historica (AH), by and through its undersigned counsel, submits the following statements regarding suitability of recommended candidates for mediators pursuant to Court Order of January 26, 2023:

I. BRIEF BACKGROUND

Pursuant to the Court Order of January 26, 2023, Academia Historica identified and shared its two proposed mediators with Chiang Hsiao Yen Family for the mediation of the balance of the case (as to items of table/list 2-2 from the Taiwan Judgment): Professor Fang, Yuan-Yi and Professor Lo, Cheng Chung. Chiang Hsiao Yen Family shared its two proposed mediators with Academia Historica: Professor Kellogg, Thomas and Professor Su, Yeong-Chin.

After striking one of candidates proffered by the other, the mediators remaining and submitted to the Court for consideration are as follows:

1. By Academia Historica: Professor Fang, Yuan-Yi, (CV is attached as Exhibit 1 hereto) and
2. By Chiang Hsiao Yen Family ("CHYF"): Professor Kellogg, Thomas (CV is attached as Exhibit 2 hereto)

II. SUITABILITY OF THE CANDIDATE OFFERED FOR CONSIDERATION

Academia Historica's proffered mediator, Dr. Yuan-Yi Fang ("Fang") checks all of the key boxes to serve as the best choice for mediating the present case: 1) legal training in relevant fields; 2) mediation experience; 3) Mandarin Chinese ability; and 4) reasonable fees.

Dr. Fang is the Distinguished Professor of Law and a Dean at the Chinese Cultural University (CCU) in Taipei, Taiwan. Dr. Fang was also a former provost of said university. CCU is a private and one of the largest university in Taiwan whose name was designated by former ROC President Chiang Kai-shek in 1963. (See https://en.wikipedia.org/wiki/Chinese_Cultural_University). CCU has more

1 than 30,000 students and 700 faculty members. (Id.)

2 First, Dr. Fang's fields of expertise include, inter alia, family and private
3 rights law and international law, which are relevant to resolve and mediate disputes
4 among heirs and parties claiming inheritance or family connections to the deposits at
5 issue as well as possible complicities arising from parties with residence in different
6 countries. In addition, Dr. Fang served as Lieutenant Counseling Chief to the
7 Republic of China Army, akin to the U.S. Judge Advocate General's Corp. and also
8 teaches legal systems of Republic of China. Further, Dr. Fang's extensive education
9 in law included studies and two degrees in Taiwan (Republic of China) and United
10 States. Combined, Dr. Fang is well versed in the histories and laws of Republic of
11 China (Taiwan) having studied, practiced, and taught (and still teaching) the laws of
12 Republic of China and relevant subject matters.

13 Second, Dr. Fang also has proven experience in mediation. Dr. Fang is
14 currently an arbitrator and mediator with the Chinese Arbitration Association (CAA)
15 in Taipei Taiwan. CAA is a non-profit organization providing impartial arbitration,
16 mediation and other forms of alternative dispute resolutions, in Mandarin Chinese
17 and English, under its own rules or any other rules agreed upon by the parties. In
18 addition to his role with the CAA, Dr. Fang has also mediated cases and disputes
19 between different parties (e.g. students, faculties, and/or other parties etc.) as dean
20 and former provost of Chinese Cultural University. Collectively, Dr. Fang has
21 substantial and practical experience as a mediator, both in application of appropriate
22 law and legal theories and skill of persuasion on personal level to bring parties to a
23 successful resolution. Dr. Fang's experience will be useful and effective in the
24 mediation at hand.

25 Third, as a native speaker of Mandarin Chinese, Dr. Fang is fluent in all
26 aspect of the language: reading, speaking, and writing. Dr. Fang's fluency will be
27 important in not only his communication with the parties but also his review of the
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1 parties' respective mediation submissions and documents. Further, Dr. Fang's
 2 fluency and native tongue in Mandarin Chinese enable him to quickly understand,
 3 review and to the extent necessary, research the laws of Republic of China (Taiwan)
 4 and legal positions put forth by the parties of legal arguments during mediation
 5 without requiring assistance of a translator or interpretation of the Republic of China
 6 laws and documents. As a practitioner in Taiwan of Republic of China laws, Dr.
 7 Fang would also be able to effectively understand and apply the rationale and legal
 8 analysis of the Taiwan Courts from the Taiwan Judgment to help the parties mediate
 9 the dispute over the balance of the deposit materials. This will expedite the
 10 mediation process and mitigate the costs to the parties.

11 Fourth, both of the mediators proffered by AH, including Dr. Fang, charge
 12 the rate of \$2,500 New Taiwanese Dollar (NTD) per day per party to mediate the
 13 present case. The approximate currency conversion of \$2,500 NTD as of the date of
 14 this filing is \$83.00 U.S. Dollars. Thus, where the parties to the mediation are AH
 15 and Chiang Hsiao Yen Family only, the total charge for mediation per day would be
 16 a combined \$5,000 NTD combined or \$166.00 USD per day. Neither Dr. Fang nor
 17 Prof. Lo has received or will receive any financial compensation or reimbursement
 18 from AH beyond the per day mediation fees stated above (if chosen as mediator).

19 AH expects the mediation process will require multiple days of mediation
 20 because the case involves numerous heirs and parties claiming interests who have
 21 different positions, proofs or evidence needed in support of standing and/or
 22 positions, and application of different provisions of laws of Republic of China
 23 (Taiwan). Accordingly, the rate charged by Dr. Fang is both reasonable and most
 24 economical to the parties of all the mediators proffered to the Court, not only on
 25 daily basis for the duration of the mediation. The rate of mediation charged by
 26 CHY's proposed mediators, based on the anticipated need for multiple days of
 27 mediation, would render mediation a very costly endeavor. AH, as a public entity
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1 with a set budget limitation, respectfully request the Court to give due consideration
2 as to the cost of mediation.

3 In addition to the four factors above, Dr. Fang also serves as the most suitable
4 choice for mediation for two more reasons. One, Dr. Fang is located in Taiwan,
5 where most if not all of the parties currently reside or are situated, including
6 Academia Historica and all four individuals that constitute the Chiang Hsiao Yen
7 Family. The same proximity of parties and Dr. Fang allows for mediation to be
8 conducted in person to minimize “lost in translation” of words and arguments that
9 sometimes occur via remote conferencing and provide for greater flexibility in
10 scheduling (whether as to when to start, stop, or reconvene) without needing to
11 consider time zone differences. The proximity of location also allows for easier
12 notification, retrieval, and availability of witnesses and documents that may be
13 needed for mediation, as substantial number of witnesses and relevant documents
14 are located in Taiwan. For example, documents needed to establish familial lineage
15 as to prove standing are located at government office in Taiwan or parties’ homes or
16 offices in Taiwan; as such, it will greatly reduce the time to pull and present such
17 records and reduce the lag or stoppage of mediation.

18 Two, Dr. Fang is not a member of any political party in Taiwan and is not
19 under the employment of any political party or government agency. CCU is a
20 private institution subject to the control of a private board of directors that oversees
21 the university. Dr. Fang is therefore not subject to any purported control or
22 influence of “government” or “ruling party” that CHY Family had alleged
23 previously of other candidates. Dr. Fang is an accomplished scholar, legal
24 practitioner and proven administrator who has had track record of serving
25 effectively in impartial and mediating roles.

26 A comprehensive review and comparison of the CVs show that Dr. Fang
27 would be the most suitable choice of the two mediators. On initial review, Professor
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1 Kellogg has experience and knowledge of China and Asia. On a deeper analysis
 2 and research of his publication show that his connection to China pertains to
 3 People's Republic of China (e.g., Beijing, Hong Kong, PRC laws and legal issues)
 4 and has little to no connection or experience as to Republic of China (Taiwan).
 5 People's Republic of China and Republic of China (Taiwan) are two separate
 6 "Chinas" and countries with different legal systems, histories and sets of laws; the
 7 use of "China" by Professor Kellogg and United States pertains to People's
 8 Republic of China and not Taiwan. (See e.g., 22 U.S.C. 3301 et seq., Taiwan
 9 Relations Act). Here, the Republic of China (Taiwan) laws, and not those of
 10 People's Republic of China, would govern or apply to the factual and legal issues to
 11 be mediated. It does not appear that Professor Kellogg has practiced, researched, or
 12 published about Taiwanese or Republic of China law. While Professor Kellogg's
 13 research and publication are on a scholarly and macro-level only of Chinese laws
 14 that do not apply to the disputes at hand, Dr. Fang's experience is based on both
 15 scholarly and actual practice of the relevant laws. The CV for Professor Kellogg
 16 provided by Chiang Hsiao Yen family also does not indicate any role or experience
 17 in mediation or alternative dispute resolution. Lastly, the mediator fees are
 18 substantially different.

19 Based on the above, Academia Historica submits that Dr. Fang is neutral,
 20 effective, experienced, and most suitable to be the mediator for the present matter.

21
22 Respectfully Submitted,

23 Dated: February 17, 2023

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 25 /s/ Peter C. Chen
 26 Peter C. Chen, Esq.
 27 Attorney for Academia Historica
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